| | | |
|---|---|---|
| In the Matter of | **)** | |
| | ) | |
| Telephone Number Portability | ) | |
| | ) | CC Docket No. 95-116 |
| Repeal of Section 52.31 of the | ) | |
| Commission's Rules Regarding | ) | |
| Commercial Mobile Radio Service | ) | |
| Local Number Portability | ) | |
| _____ | ) | |

### SUPPLEMENTAL DECLARATION OF DOUGLAS I. BRANDON
### IN SUPPORT OF EMERGENCY MOTION FOR STAY
### OF THE CMRS LNP RULE FILED AUGUST 15, 2003

I, Douglas Brandon, am Vice President for Legal and External Affairs at AT&T Wireless

Services, Inc. ("AWS").  In this position, I am responsible for legal, regulatory, and legislative

matters at the Federal level, including matters pending before the Federal Communications

Commission ("Commission").  I am also responsible for oversight of regulatory compliance, and

have been involved with the company's implementation of necessary systems and procedures to

comply with the pending local number portability ("LNP") deadline.

In this declaration, I will describe the expenses that AWS has incurred to date, and will

incur, if the Commission fails to suspend the LNP rule at 47 U.S.C. Section 52.31 pending a

decision on the Petition for Rulemaking to Rescind the CMRS LNP Rule ("Petition").

I.      **INTRODUCTION AND SUMMARY**

The implementation of LNP requires enormous modifications to almost every aspect of

AWS's business, including among other things, modifying existing network hardware and

software; changing existing business operations and policies governing activation and

termination of service; developing new policies and procedures specifically for an LNP

environment; and hiring and training employees for the LNP inter-carrier communications and customer care centers.

The costs associated with the major modifications necessary to *implement* LNP are tremendous. To date, AWS has already incurred $49.9 million in order simply to establish network systems and operations to support LNP. Without a stay of the LNP rule, AWS at this time is continuing to expend considerable sums on LNP implementation. I estimate that AWS will expend approximately an additional $100 million on LNP implementation between now and the end of 2003. Furthermore, once it has fully implemented LNP processes and procedures, AWS will incur significant *ongoing* costs for providing LNP. These costs are projected to total approximately $280 million for the year 2004.

Moreover, AWS will incur other opportunity costs as a result of compliance with the LNP mandate. The time and resources that AWS will spend in order to implement and provide LNP will mean less time and resources spent on other products and services that would benefit our customers and shareholders. For example, AWS will be unable to spend these finite resources on additional network build-out to improve service quality or to provide 3-G services for customers seeking such service features.

Finally, given that there are many unresolved issues surrounding the porting process and given the high volumes anticipated for wireless ports, it is likely that the porting process at least initially will experience a number of problems and delays. For example, there may well be a number of unsuccessful ports, network failures, and other porting problems once LNP is implemented. These porting-related problems will have negative consequences for AWS's business in terms of a loss of customer good will. Moreover, any porting failures and network problems would have considerable adverse impacts on individual customers and businesses.

## II.    EXPENSES INCURRED TO DATE TO IMPLEMENT LNP

AWS has already incurred substantial expenses to prepare its network and business

operations for LNP.  As I note above, these modifications affect virtually all of AWS's existing

systems, processes, and procedures, which will have to be modified to accommodate ported

numbers.  For example, AWS has incurred costs related to:

- modifying network hardware and software for billing, provisioning, customer care, and operations support systems in an LNP environment;

- modifying network systems to communicate and interface with the Service Order Administration, and the Number Portability Administration Center ("NPAC") (centralized database that coordinates the porting of telephone numbers between carriers and downloads routing information to carriers' local databases);

- establishing communications interface systems, and agreements for LNP processes and procedures with other carriers;

- altering existing number inventory programs for ported-in numbers;

- developing new sales and activation processes;

- establishing interfaces to porting applications for resellers and modifying existing processes and procedures with resellers;

- developing and staffing a porting administration group (PAG) focused solely on Number Portability Administration Center activation, processing, and addressing ports and LNP-related issues; and

- paying for the establishment of the NPAC (fees assessed by the NPAC on all carriers for the establishment, maintenance, and operation of the NPAC).

## III.    ADDITIONAL ESTIMATED EXPENSES FOR LNP IMPLEMENTATION AND OPERATION

Although AWS already has incurred significant costs in order to prepare for and

implement LNP, I anticipate that we will continue to spend substantial amounts of money in the

above areas between now and the current LNP deadline to implement LNP by the established

deadlines.  Furthermore, AWS will incur inordinate expenses on an *ongoing* basis to maintain

operations that support LNP. In addition, there are other costs that are less tangible but that still will have substantial impacts on AWS's customers, business, and revenues. The following is a list of the various types of costs that AWS will expend in order to comply with the current LNP rule.

### A. Costs of LNP Related to Business Operations

AWS will continue to spend considerable sums in the following areas, not only to continue to implement LNP before the November 2003 deadline, but also to maintain ongoing operations supporting LNP after November 2003. Some of these costs overlap the implementation costs, and include training retail sales channels, dealers, individual customer and business customer activations groups, and customer service personnel for an LNP environment; hiring, training, and maintaining a division of employees for its PAG; renting office space for these new employees; paying NPAC fees; testing the inter-carrier communications porting process; and maintaining other ongoing operations, processes, and procedures for LNP.

### B. Additional Costs of Increased Time Spent on Activations and Addressing Porting Issues

In addition to the above costs attributable to LNP implementation and operation, AWS will incur other costs related to LNP that are less easy to quantify, but are substantial, nonetheless. These costs include the additional time to activate customers who are porting numbers; the additional money spent on customers who are leaving by porting their numbers (churn); and additional sales and marketing expenses that are focused on attracting other carriers' customers, while preventing erosion of AWS's own customer base due to porting.

As an initial matter, the addition of porting to the activation process will significantly complicate and lengthen the activation time for customers.

This increased time does not include the additional time that AWS's customer service

centers, stores, dealers, and others in its retail sales channels will devote to interacting with customers and educating them about porting issues, answering questions, and resolving porting-related problems. At a minimum, customer service representatives, stores, and employees will need to spend additional time educating customers about critical porting issues such as "mixed service." For example, AWS will need to inform its customers that "mixed service" occurs during the time that a port is being completed between the old and new service provider, if the new service provider has activated service immediately while the old service provider has not disconnected service and, consequently, a customer may have active inbound service on the old and outbound service on the new phone. As a result, in the "mixed service" period, there may be E-911 issues because a 911 call-back from a 911 dispatcher may be routed incorrectly to the old or new service provider's phone, regardless of where the E-911 call originated. The "mixed service" issue is just one of a few unresolved issues arising in the wireless porting context.

Another significant expense associated with LNP is the additional cost related to preventing churn and acquiring customers in an LNP environment. Given that there may be increased amounts of churn, AWS's customer representatives will spend additional time on the termination and porting-out process that they currently do not spend on service termination. Further, AWS will spend additional amounts on marketing, as well as on plans for acquiring other carriers' customers and retaining its own customers, in order to remain competitive.

### C. Opportunity Costs of LNP

The modifications that AWS is making, and will continue to make, in order to implement LNP policies and procedures, upgrade its network and modify business operations, and maintain and operate systems to support LNP also inflict considerable cost and harm upon AWS beyond the mere dollars associated with these activities. The resources and time that AWS will spend on modifying existing business operations and processes to accommodate LNP are resources and

time diverted away from other critical areas and products and services that would benefit AWS customers and shareholders, such as providing other competitive choices, features, and services such as 3-G services; or building out its network to improve service quality and coverage. The diversion of these finite resources from network build-out and revenue-generating products/services may also result in safety and security-related opportunity costs, as well as costs for shareholders. These costs are more difficult to quantify but are considerable nonetheless, given the challenges facing the telecommunications industry in the capital markets.

### D. Other Unanticipated Negative Effects

As I discuss, there are a variety of substantial costs and harms resulting from LNP implementation and operation. In addition, AWS may experience other negative effects that result from LNP implementation at this time. For example, due to the lack of legally enforceable porting guidelines for wireless carriers, there is considerable confusion about some basic elements of the porting process. Further, there are unresolved concerns about whether the NPAC will handle the increased volumes. Given these uncertainties, there very well may be porting errors or delays, which will result in further harm to both AWS and its customers.

The Commission has yet to resolve some of the most fundamental questions and issues pertaining to the porting process for wireless carriers, and has established no processes and procedures for wireline-wireless and wireless-wireless porting. This will likely create confusion and problems in a number of areas, including the appropriate porting interval. As a result, some carriers may decide to port a number within a few hours, while other carriers may assert that a few days is necessary to complete a port. The lack of clear Commission rules and guidelines on these unresolved porting issues are likely to result in conflicting carrier actions and possible porting delays and failures. Ultimately, this will mean that customers will be confused and frustrated, which will negatively affect AWS in terms of loss of customer goodwill.

Similarly, because some carriers have not engaged in adequate inter-carrier testing, there may be additional problems that have not been fully resolved with regard to that process. Moreover, it is still uncertain whether the NPAC will be able to handle the substantially increased volumes of ported numbers once wireless LNP is implemented. Some estimates are that wireless porting volumes will add up to 30.8 million messages on the LNP architecture per month; and that the increased volumes on the NPAC and other services (Service Order Administration) and Local Service Management System (LSMS) may create backlogs, which may result in incorrect routing information. In fact, when Australia introduced LNP, several carrier's LNP systems crashed numerous times, and there were backlogs taking up to three days to clear. It is uncertain exactly what the dollar impact is from these types of porting issues and failures, but they are likely to have quite an effect on customers and carriers alike.

In sum, not only would these delays and porting difficulties be detrimental to individuals and businesses and cost money for those seeking to port, but the frustration and confusion that customers experience will ultimately affect and taint AWS's business relations with these customers.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 22nd day of August 2003.

_____/s/_____
Douglas I. Brandon
Vice President, Legal and External Affairs